

# FISH & RICHARDSON P.C.

601 Thirteenth Street N.W.  
Washington, DC 20005

Telephone  
202 783-5070

Facsimile  
202 783-2331

Web Site  
www.fr.com

Frederick P. Fish  
1855-1930

W.K. Richardson  
1859-1951

April 15, 1999

By Hand Delivery

DOCKET FILE COPY ORIGINAL

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
The Portals TW-A325  
445 12th Street, SW  
Washington, DC 20554

Re: Fusion Lighting, Inc.  
ET Docket No. 98-42  
Our File 07330/008001

RECEIVED  
APR 15 1999  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Dear Ms. Salas:

I am enclosing recent correspondence for the above-referenced file.

Very truly yours,



Terry G. Mahn

/seg  
Enclosure/Original & Copy

cc: Service List

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[www.fr.com](http://www.fr.com)

Frederick P. Fish  
1855-1930

W.K. Richardson  
1859-1951

April 13, 1999

Via Facsimile  
(703) 812-0486

Mitchell Lazarus, Esq.  
Fletcher Heald & Hildreth, P.L.C.  
1300 North 17th Street, 11th Floor  
Rosslyn, VA 22209-3801

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APR 15 1999  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: Our File 07330/008001

Dear Mitch:

BOSTON  
NEW YORK  
SILICON VALLEY  
SOUTHERN CALIFORNIA  
TWIN CITIES  
WASHINGTON, DC

Thank you for notifying me that the client group you represent, Bluetooth et al or "Bluetooth", intends to respond to Fusion Lighting's March 12<sup>th</sup> request for clarification of the information concerning Bluetooth's spectrum demands that was delivered to Fusion on March 2<sup>nd</sup> pursuant to the agreement reached by Bluetooth and Fusion at their meeting on January 14<sup>th</sup>. Despite at least three months lost to Bluetooth's delays, I hope that Fusion at last will have the basic information that it has needed to assess and to address the substance of the issues. It will do so promptly, precisely as it has always said it would.

Pending that discussion of substance, I want to register Fusion's objection to the deceitful tactics that Bluetooth has employed repeatedly in these matters, which, in Fusion's judgment and mine, are cynically and maliciously calculated to manipulate both the FCC and the regulatory process. There are many examples, but I will comment now only on the following matters:

1. During November and December 1998, Bluetooth knowingly and repeatedly misrepresented to members of the OET and Commissioners' staffs that Fusion had refused to share data or to discuss ISM band issues. Those charges were utterly false.
2. In presentations to the same parties, Bluetooth knowingly and repeatedly asserted that Fusion's lamps radiate at hazardous levels and could be radically improved at a cost of "pennies". Those data were utterly false as was the implied corollary that Fusion is an irresponsible actor that ought to be disciplined.
3. Well before January 14<sup>th</sup>, Fusion requested that Bluetooth provide technical information that would help Fusion understand Bluetooth's spectrum demands and enable Fusion to assess and to address their substance. Virtually no information was provided, however. Bluetooth representatives blustered and bullied throughout, frequently citing the size and reach of their constituent companies and their power to get what they want, but finally promised to provide within two weeks the detailed data that Fusion continued to insist upon.

April 12, 1999

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4. Instead, but using the full two weeks, Bluetooth forwarded only two articles published in previous years along with a copy of 1997 IEEE Standard 802.11, and promptly demanded another meeting. Fusion said that it would be happy to meet after Bluetooth fulfilled its January 14<sup>th</sup> commitment to provide data that would enable Fusion to understand Bluetooth's spectrum demands and to discuss them constructively. A reasonable approximation of such data was delivered to Fusion on March 2<sup>nd</sup> in the form of two proposed FCC standards for limitations on in-band radiation by Fusion's products. Fusion promptly reviewed that material and responded just ten days later, neutrally requesting clarification of six points, including such fundamentals as whether to measure Bluetooth's proposed radiation limit at the peak or as an average.
5. On March 11<sup>th</sup>, the joint "no action" request to the FCC and the clear understanding of privacy with Fusion notwithstanding, senior managers of two of the most prominent constituents of Bluetooth – Lucent Technology and Texas Instruments – wrote jointly to the Commission, with copies to each Commissioner individually. They had given Fusion only nine days to consider what Bluetooth had been unwilling or unable to explain for at least three months, and then rushed to state – again, utterly falsely -- that Fusion had rejected Bluetooth's proposal "without comment". For good measure, they enclosed a copy of the bulk of the identical document that Bluetooth had sent to Fusion privately. And they attempted to justify their action by implying falsely that it reflected the interest of the 325,000 members of the IEEE, whom they do not represent, rather than that of their employers, members of Bluetooth, whom they do.

This is contemptible behavior measured even by the standards of modern Washington, but it is regrettably typical of Bluetooth's continuing attempt to manipulate the Commission and the regulatory process. Delay, deceit and demonization should not make policy, however big and powerful Bluetooth may be. I remind you that Fusion committed in good faith to a process urged upon it by Chairman Kennard, but has a limited tolerance for Bluetooth's continued abuse of Fusion and that process.

I am submitting this letter to the public file to protect the public record.

Very truly yours,



Terry G. Mahn

CC: Fusion Lighting, Inc.  
Service List